



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/696,910

10/29/2003

Brian H. Silver

07-2116-A

9259

20306 7590 08/10/2007
MCDONNELL BOEHNNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

EXAMINER

WEAVER, SUE A

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,910

Applicant(s)

SILVER, BRIAN H.

Examiner

Sue A. Weaver

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 and 42-71 is/are pending in the application.
- 4a) Of the above claim(s) 17, 18, 36, 37, 58, 59 and 61-69 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 32 and 54 is/are allowed.
- 6) ☒ Claim(s) 14-16, 19, 20, 22-31, 33-35, 38, 39, 42-53, 55-57, 60, 70 and 71 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 3781

1. Applicant's election without traverse of Group I1/30/06 and the specie of nipple 410 in the reply filed on 1/30/06 and 6/22/06 is acknowledged.

Claims 17, 18, 36, 37, 58, 59 and 61-69 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/30/06 and 6/22/06.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 15 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hoffman et al '162.

Note the solid nipple 22 with micro channels which do not permit dripping.

4. Claims 34, 39, 42 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 15 and further in view of Ishimaru et al, JP '076 of record.

The nipple is made of the soft material claimed permitting the channel to pinch with sufficient pressure.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 3781

6. Claims 14, 16, 19, 20, 22, 23, 27, 33, 35, 38, 43, 44, 55, 57 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dreyfus '152 in view of Ishimaru et al, JP '076, of record.

Note that Dreyfus teaches a soft nipple with a solid portion with at least one channel and an integral mounting portion. To have formed the nipple of a soft material to provide more natural nursing would have been obvious in view of Ishimaru et al.

7. Claims 45, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 44 above, and further in view of Morano '608, of record.

To have formed the attachment porting as a co-molded portion of material which is more rigid and provided with indicia would have been obvious in view of such teaching by Morano.

8. Claims 30, 31, 46 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 14 and 45 above, and further in view of Yamamoto et al; JP '498, of record.

To have formed the mounting portion of a different hardness or shore A of 40-60 for a better seal would have been obvious in view of such teaching by Yamamoto et al.

9. Claims 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 14 and above, and further in view of Parkin '236, of record.

Art Unit: 3781

To have added a venting structure to the attachment portion would have been obvious in view of such teaching by Parkin.

10. Claims 24-26, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 19 and 43 above, and further in view of Fort '733, of record.

To have formed the mounting portion with a thread and ring would have been obvious in view of such teaching by Fort.

11. Claims 28, 29, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 27 and 50 above, and further in view of Dunn et al '766, of record.

To have formed multiple nipples and the attachment portion with color coding indicia would have been obvious in view of such teaching by Dunne et al.

12. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 1-13, 32 and 54 are allowed.

14. Applicant's arguments with respect to claims 14-16, 19, 30, 39, 70 and 71 and the related claims have been considered but are moot in view of the new ground(s) of rejection.

15. Claims 40, 41 and 72 have been canceled.

16. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

Art Unit: 3781

such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

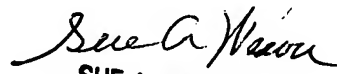
Art Unit: 3781

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday from 5:30 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW


SUE A. WEAVER
PRIMARY EXAMINER
GROUP 3200